

DETAILED ACTION

1. This office action is in response to communication filed on 02/01/2008.
2. Claims 1-19 have been cancelled. Newly submitted claims 20-39 have been entered and are presented for examination.
3. Applicant's amendment to the specification has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20, 22, 25, 26, 32, 34, 36, and 37 are rejected under U.S.C. 103(a) as being unpatentable over the article titled, "Burlington Outlet Opens At Commons Chain Fills Void Left By Kmart," by Ron Maxey, published in The Commercial Appeal on March 13, 1997 on pg. SE.1 (hereinafter Maxey), in view of the article titled, "Promotional Ties to Charitable Causes Help Stores Lure Customers," by Ann Zimmerman published in the Wall Street Journal on December 2, 2000 on pg. B.1 (hereinafter Zimmerman).

In reference to claims 20 and 32, Maxey teaches a method of promoting sales of goods and/or services at a shopping complex, comprising: providing a shopping complex under common ownership having a plurality of individual spaces capable of being leased to individual retail tenants (page 1 paragraphs 1-3 and page 2 paragraph

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13); selecting (i.e. locating) and causing at least one of said individual retail tenants to occupy and lease at least one of said individual spaces within said shopping complex (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraph 13); and wherein the above steps are used to encourage said at least one retail tenant to occupy and lease said at least one space within said shopping complex (page 1 paragraph 3), which in turn, helps to promote the sales of goods and/or services within said shopping complex (Note: the underlined portion of the claim is intended use and is not given patentable weight).

Maxey does not specifically teach providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment; conducting or having conducted at least one activity within said microenvironment having entertainment value consistent with said theme designed to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant. Zimmerman teaches providing a physical microenvironment (i.e. 20 blocks of Madison Avenue in New York including stores such as Armani and Zitomer) within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment (i.e. holiday charity theme or a back to school shopping theme) (page 2 paragraphs 2, 3, and 8);

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conducting or having conducted at least one activity within said microenvironment having entertainment value consistent with said theme (i.e. providing the activity of contributing 20% of total sales to charity by the malls and providing the activity of contributing \$50 by consumers to charity for purchase of the 20% discount card) designed to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant (Note: The underlined section of the claim is an intended use and is not given weight) (page 1 paragraph 2 and page 2 paragraphs 2, 3, 8, and 10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment; and conducting or having conducted at least one activity within said microenvironment having entertainment value consistent with said theme designed to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

5. In reference to claims 22 and 34, Maxey does not teach the method wherein said at least one activity is an ongoing activity that is part of the normal ongoing activity of the shopping complex. Zimmerman teaches the method wherein said at least one activity is an ongoing activity that is part of the normal ongoing activity of the shopping complex (i.e. the shopping card promotion is an ongoing activity lasting 9 days each

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year) (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said at least one activity is an ongoing activity that is part of the normal ongoing activity of the shopping complex to encourage customers to return to the shopping center to make additional purchases so that the customers can take advantage of participating in the activity.

6. In reference to claims 25 and 36, Maxey does not specifically teach the method wherein said activity is a seasonal activity. Zimmerman teaches the method wherein said activity is a seasonal activity (i.e. charity event held near Christmas time or back to school event held in the Fall) (page 2 paragraphs 8, 9, and 11 and page 3 paragraph 9). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said activity is a seasonal activity to encourage shoppers to come to the shopping center during the holiday season to make all their respective purchasing.

7. In reference to claim 26, Maxey teaches the method, wherein the method comprises selecting (i.e. locating) at least two individual retail tenants to occupy and lease at least two spaces within said microenvironment (page 2 paragraph 13).

8. In reference to claim 37, Mackey does not specifically teach the method wherein the method comprises selecting at least two individual retail tenants to occupy and lease at least two spaces within said microenvironment, such that the theme and said at least one activity conducted within said microenvironment have the effect of promoting the goods and/or services sold by said at least two retail tenants located within said

microenvironment (Note: the underlined portion of the claim is intended use and is not given any patentable weight). Zimmerman teaches the method wherein the method comprises selecting at least two individual retail tenants to occupy and lease at least two spaces within said microenvironment, such that the theme and said at least one activity conducted within said microenvironment have the effect of promoting the goods and/or services sold by said at least two retail tenants located within said microenvironment (page 1 paragraph 2 and page 2 paragraph 3). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein the method comprises selecting at least two individual retail tenants to occupy and lease at least two spaces within said microenvironment, such that the theme and said at least one activity conducted within said microenvironment have the effect of promoting the goods and/or services sold by said at least two retail tenants located within said microenvironment, to encourage the customers to spend more money at the shopping center.

9. Claims 21, 23, 24, 33, and 35 are rejected under U.S.C. 103(a) as being unpatentable over Maxey in view of Zimmerman and further in view of the article titled, "Retailers gear up for big party: Businesses try quirky promotions during convention," by The Associated Press, published in the Charleston Daily Mail on July 29, 2000 on pg. 3.A (hereinafter TAP).

In reference to claims 21 and 33, Maxey does not teach the method wherein the activity conducted within said microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by

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consumers. TAP teaches the method wherein the activity conducted within said microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by consumers (i.e. cookies, pies, jelly beans, and martinis) (page 1 paragraphs 1, 4, and 5, page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein the activity conducted within said microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by consumers, since this would give the user an opportunity to sample the product before purchasing it and would encourage the user to try out new products without the risk of having to come back to return the product if the user doesn't like the item.

10. In reference to claim 23, Maxey does not specifically teach the method wherein said theme relates to cooking and tasting activities. TAP teaches the method wherein said theme relates to cooking and tasting activities, wherein said at least two of said retail establishments comprises at least one store that sells goods relating to said cooking and tasting display activities (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said theme relates to cooking and tasting activities, to provide to the customers who are interested in exploring cooking and tasting products during a shopping trip an opportunity to sample the products before purchasing them and to encourage the customers to try out new products without the risk of having to come back to return the

products if the user doesn't end up liking the products.

11. In reference to claims 24 and 35, Maxey does not specifically teach the method wherein said activity comprises cooking and tasting activities and displays. TAP teaches the method wherein said activity comprises cooking and tasting activities and displays (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said activity comprises cooking and tasting activities and displays, since this would give the user who are interested in exploring cooking and tasting products during a shopping trip an opportunity to sample the products before purchasing them and would encourage the user to try out new products without the risk of having to come back to return the products if the user doesn't end up liking the products.

12. Claims 27-30 and 38 are rejected under U.S.C. 103(a) as being unpatentable over Maxey in view of Zimmerman and further in view of Official Notice.

In reference to claims 27 and 38, Maxey teaches a clothing store that sells sports related clothing (i.e. Burlington Coat Factory and Kmart both sell sports related clothing) (page 1 paragraphs 1 and 4-6). Maxey does not specifically teach the method, wherein another retail tenant store sells sporting goods. Official Notice is taken that it is old and well known to locate a retail tenant store that sells sporting goods in addition to a store that sells sports related clothing in a shopping center. For example, in a shopping center, there can be a department store like Target and a sporting goods store like Sports Authority. It would have been obvious to a person of ordinary skill in the art at

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the time of the applicant's invention to have a store that sells sporting goods in addition to a store that sells clothing in a shopping center to enable customers to shop for both things at the same time.

13. In reference to claim 28, Maxey teaches a clothing store (i.e. Burlington Coat Factory and Kmart both sell clothing) (page 1 paragraphs 1 and 4-6). Maxey does not specifically teach the method, wherein another retail tenant store sells beauty supplies. Official Notice is taken that it is old and well known to locate a retail tenant store that sells beauty supplies in addition to a store that sells sports related clothing in a shopping center. For example, in a shopping center, there can be a department store like Macy's and a clothing store like Banana Republic. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have a store that sells beauty supplies in addition to a store that sells clothing in a shopping center to enable customers to shop for both things at the same time.

14. In reference to claim 29, Maxey does not teach the method wherein said at least two retail tenants sell goods and/or services relating to concerts and/or musical activities and comprise a store that sells cd's and/or tapes and another that sells musical instruments. Official Notice is taken that it is old and well known to locate a store that sells cd's and/or tapes in addition to a store that sells musical instruments in a shopping center. For example, in a shopping center, there can be a CD store as well as an electronics store that sells musical instruments. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have a store

that sells cd's and/or tapes and another that sells musical instruments to enable customers to shop for both things at the same time.

15. In reference to claim 30, Maxey does not teach the method wherein said at least two retail tenants sell goods and/or services relating to cooking and/or tasting activities and comprise a store that sells cookware and another that sells unique foods. Official Notice is taken that it is old and well known to locate a store that sells cookware and another that sells unique foods in a shopping center. For example, in a shopping center, there can be a department store like Macy's and a Godiva Chocolates store. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have a store that sells cookware and another that sells unique foods to enable customers to shop for both things at the same time.

16. Claims 31 and 39 are rejected under U.S.C. 103(a) as being unpatentable over Maxey in view of Zimmerman and further in view of TAP and further in view of Official Notice.

In reference to claims 31 and 39, Maxey does not specifically teach the method wherein more than one microenvironment is developed within said shopping complex, and wherein the themes of the two microenvironments relate to any two of the following: a) sports or other outdoor activities; b) fashion design or make-up activities; concerts or musical activities; and cooking or tasting activities. TAP teaches the method wherein said theme relates to cooking and tasting activities, wherein said at least two of said retail establishments comprises at least one store that sells goods relating to said cooking and tasting display activities (page 1 paragraphs 1, 2, 4, and 5 and page 2

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paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said theme relates to cooking and tasting activities, to provide to the customers who are interested in exploring cooking and tasting products during a shopping trip an opportunity to sample the products before purchasing them and to encourage the customers to try out new products without the risk of having to come back to return the products if the user doesn't end up liking the products. Official Notice is taken that it is old and well known to provide a second microenvironment in a shopping center that relates to make-up activities. For example, in a shopping center, there can be kiosks located adjacent to each other that are selling hair clips and other products and another kiosk that is selling nail care products. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have two microenvironments in a shopping center to make it easy for the customers to shop for the type of products that are featured in those microenvironments at the same time.

Response to Arguments

17. After careful review of Applicant's remarks/arguments filed on 02/01/2008, the Applicant's arguments with respect to claims 20-39 have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to claims 20-39 have been entered and considered.

18. Applicant argues the activities in Zimmerman are not part of the ongoing business but are rather a temporary program. The Examiner respectfully disagrees with the Applicant, since the 9 day shopping event is ongoing for those 9 days, and this is an

ongoing promotion since it occurs annually (page 1 paragraph 2 and page 2 paragraphs 3 and 10).

19. Applicant argues that the activities in Zimmerman are solely related to sales and discounts whereas his activities stand on their own whether or not a sale is ever made. The Applicant is arguing what he has not claimed here. Examiner reviewed the claims, and this language has not been found in the claims and therefore does not have to be addressed.

20. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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/N. B./
Examiner, Art Unit 3622

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622